

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FREDERICK P. HENRY
32102 Flower Hill Church Road
Eden, Maryland 21822

Plaintiff

v.

ROBERT PURNELL
30474 Revells Neck Road
Westover, Maryland 21871

Defendant

Case No. _____

JFM 04 CV 979

COMPLAINT
(Civil Rights Action)

1. The action arises under the Fourth Amendment to the Constitution of the United States, and the United States Code, Title 42 § 1983, as hereinafter more fully appears.
2. On October 22, 2003, the defendant, in his role as Deputy Sheriff of Somerset County, Maryland, went to the plaintiff's residence to effectuate an arrest warrant for the plaintiff's failure to pay \$348.00 in child support. The plaintiff arrived at his residence with his employer and co-worker in the employer's vehicle.
3. After identifying himself to the defendant, the plaintiff disembarked from the vehicle. The defendant, assuming that the plaintiff was fleeing, reached into his side holster, pulled out his service pistol, and shot the plaintiff. The bullet entered the back of plaintiff's right arm, shattering his right elbow.
4. Specifically, the plaintiff alleges that the defendant acted under the color of state

and subjected the plaintiff to deprivation of rights and privileges secured and protected by the United States Constitution and laws of the United States, namely the Fourth Amendment right to be free from the excessive use of force against a plaintiff's person during the course of an arrest. Accordingly, the plaintiff proceeds with the present action for the deprivation of his civil rights as forth under §1983 of the United States Code.

5. The force used by the defendant in making the arrest was unreasonable and excessively violent as it exceeded that degree of force which a reasonable and prudent law enforcement officer would have applied in making the arrest under the same circumstances.

6 The plaintiff's use of his right arm is presently severely impaired as a result of the wound sustained in the shooting. The deadly force used by the defendant was the cause-in-fact of the physical injuries and damages that the plaintiff suffered. The deadly force used by the defendant was also the proximate cause of the plaintiff's injuries as the bullet wound sustained by the plaintiff was a reasonably foreseeable consequence of the shooting. The plaintiff alleges that but for the constitutional deprivation, such injuries and damages would not have occurred.

7. The plaintiff alleges that at the time of the action complained of, the right to be free from unreasonable force during an arrest was defined with reasonable specificity, the case law the United States Supreme Court and the courts of Maryland support the existence of the s Fourth Amendment right, and that a reasonable defendant under existing law would have understood that his or her acts were unlawful.


8. The plaintiff claims damages alleged to have been sustained as the result of a
the Fourth Amendment

of the United States Constitution and by a federal statute protecting the civil rights of all persons within the United States. The plaintiff claims as compensatory damages the reasonable cost of past and future medical care and hospitalization, physical pain, permanent injury, emotional pain, mental anguish and lost income suffered as a result of the actions of the defendant.

9. The plaintiff also claims that the acts of the defendant were carried out with reckless indifference to the plaintiff's federally protected rights so as to entitle the plaintiff to an award of punitive damages in addition to compensatory damages.

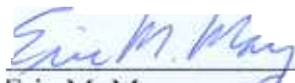
10. The plaintiff requests that attorney's fees be assessed against the defendant for all services performed in connection with this action.

WHEREFORE, plaintiff demands judgment against the defendant in the amount of ONE MILLION DOLLARS (\$1,000,000.00), plus costs and interest for compensatory damages, and punitive damages of TWO HUNDRED THOUSAND DOLLARS (\$200,000).


Eric M. May #00435
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(202) 822-8264
Attorney for Plaintiff

JURY DEMAND

Plaintiff demands trial by jury on all issues herein.


Eric M. May

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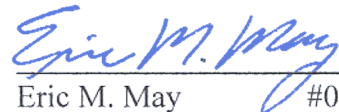
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Will the Clerk of said Court please file the attached Complaint and Summons in the
above case and return to this office for private process service.



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(202) 822-8264
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